

# AUTHORIZER PRIMER

## **Special Education in Public School Academies**

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# Pre-Application/Pre-Authorization Planning

## **❓ What is the pre-authorization phase?**

The pre-authorization phase encompasses the planning activities preceding the issuance of a Public School Academy (PSA) contract to a charter applicant by an authorizer. This stage generally starts out very informally and grows increasingly structured as potential PSA applicants work to turn their vision of a school into a concrete plan that can be implemented. Some authorizers include a pre-application phase in which potential applicants respond to a series of questions. Following this activity, some are invited to submit full applications.

This stage is frequently abbreviated or rushed due to application deadlines. Nevertheless, it is a critical stage in the creation of a charter school. This is the stage when authorizers have a unique opportunity to urge developers to incorporate special education into their overall planning rather than add it later to existing policies and procedures.

## **❓ What is an authorizer's role during pre-authorization related to special education?**

In Michigan, each authorizer defines its own process for informing potential applicants and receiving and evaluating applications. Authorizers may encounter PSA applicants with limited knowledge of their responsibilities related to students with disabilities. Ideally, authorizers should ensure that PSA applicants are knowledgeable about federal and state laws related to educating students with disabilities and cognizant of their responsibilities related to special education. Authorizers should encourage applicants to contact the special education director at the appropriate Intermediate School District (ISD) regarding finance, special education service delivery, and technical assistance. At a minimum, application materials should inform the applicants that special education is a consideration in evaluating applications. As an LEA, PSAs have full legal responsibility for special education program and/or services. Authorizers should require that PSA applicants demonstrate that they understand those responsibilities and can amass the capacity to meet them.

## **❓ How can I introduce potential Public School Academy applicants to the rationale behind special education laws?**

Introducing PSA developers to the reasons underlying special education may help lower barriers to implementing special education programs. In other words, authorizers should consider teaching potential operators why special education exists. Furthermore, it may be helpful to acknowledge that, while special education policies and procedures can be cumbersome, they have evolved over many years and they stem from documented exclusion of children with disabilities. PSA developers may require that PSA applicants attend a brief introduction to the civil rights origins of the Individuals with Disabilities Education Act (IDEA). Potential applicants should be encouraged to take advantage of resources provided by their

ISDs. One resource that an authorizer could make available to PSA applicants the review of the history of special education in the *Future of Children* available at [http://www.futureofchildren.org/usr\\_doc/vol6no1.pdf](http://www.futureofchildren.org/usr_doc/vol6no1.pdf)

## **? What does an authorizer need to know about basic IDEA concepts?**

It is important that an authorizer have a clear understanding of some basic special education concepts that are incorporated into the federal laws. A "free appropriate public education" (FAPE) refers to special education and, if required, programs and/or related services designed to meet the individual needs of students with disabilities based on an individualized education program (IEP). The "least restrictive environment" (LRE) is a requirement articulated in IDEA that stipulates that children with disabilities be educated in the general education classroom to the maximum extent appropriate and in the setting that they would be in if they did not have a disability unless the child's written plan or IEP requires otherwise. Where possible, students with disabilities are to be provided with supplemental aids and services to facilitate participation in regular education.

## **? Can an authorizer grant PSA applicants waivers from federal special education requirements as part of their charter?**

NO! The federal government has not permitted any waivers from federal special education requirements for PSAs or any charter schools. PSAs are public schools and must be open to, and serve the needs of, any student with a disability wishing to attend. However, state charter school laws can grant charter schools or PSAs waivers from state and local requirements related to special education as part of their charter. Given that one of the tenets of the charter school movement is the goal of fostering innovation, authorizers should strive to provide PSA developers with the opportunity to develop special education programs in non-traditional ways as long as they operate within the parameters articulated in federal law.

The Revised School Code, §380.1281(3) allows school districts to apply for a limited time waiver from a Michigan administrative rule. The MDE processes all waiver applications and the Superintendent of Public Instruction is responsible for approving any waiver requests. Applications for waiver requests can be found at [http://www.michigan.gov/mde/0,1607,7-140-5235\\_5686---,00.html](http://www.michigan.gov/mde/0,1607,7-140-5235_5686---,00.html)

## **? What are my responsibilities as an authorizer related to the No Child Left Behind Act (NCLB)?**

Both NCLB and state law hold authorizers accountable for ensuring that the PSAs they authorize comply with federal and state special education laws, regulations and administrative rules. For general information about NCLB, see the U.S. Department of Education website at: [www.ed.gov/nclb/landing.jhtml](http://www.ed.gov/nclb/landing.jhtml)

## **❓ What issues should I encourage PSA applicants to consider during the planning phase to ensure that they will be able to provide special education appropriately?**

When working with PSA applicants, authorizers are wise to advise applicants of the value of the old adage, "an ounce of prevention is worth a pound of cure." When applied to developing a school that can educate students with disabilities, the "ounce of prevention" requires adequate planning during the development and start-up phase. The specific issues that PSA operators should consider during the pre-authorization phase can vary by individual authorizers within the state. However, the checklist at the end of this section is a list of issues authorizers should encourage applicants to consider related to special education. The list is not exhaustive, but rather a guide to key issues that potential PSA applicants should take into account. The answers to these questions will depend upon: 1) the charter negotiated between the authorizer and the operator and 2) the characteristics of the individual PSA.

### **🔑 Summary and Key Points**

The pre-application and pre-authorization phase provides PSA authorizers the critical opportunity to inform potential applicants about their responsibilities related to special education. While many state charter school laws and charter applications require applicants to provide only a general assurance that they will not discriminate or, more specifically, an assurance to abide by IDEA, many applicants are not aware of what these assurances entail. Once charter schools are authorized and have evolved to the operating phase, the pressures associated with start-up and day-to-day operations frequently limit operators' ability and available options to create an effective and efficient special education program.

In an effort to pre-empt potential problems associated with not complying with IDEA requirements, authorizers can take advantage of applicants' planning phase to educate applicants about special education. By educating applicants earlier rather than later, authorizers can encourage applicants to build special education into their vision of a school rather than simply add special education after the school model is developed.

## ISSUES FOR CHARTER APPLICANTS TO CONSIDER DURING THE PLANNING PHASE

### HUMAN RESOURCES

- How many students with disabilities should we estimate that our school will enroll?

#### *If we will be responsible for providing special education:*

- How many special education teachers will we need to employ?
- What kind of certification will the special education teachers need?
- How does our state define “highly qualified” teachers according to NCLB and “qualified personnel” under IDEA?
- Can our school hire dual-certified teachers?
- Can we hire part-time or retired special education teachers?
- Will we need to hire staff for health-related issues?
- What are the implications for salaries and benefits if we hire full- versus part-time employees?
- If our school plans to contract with an LEA, ISD or other service provider, how do we negotiate with that entity to ensure our students will receive appropriate services?

### CURRICULUM AND ASSESSMENT

- What curricula and instruction will our school offer? Is it aligned with the Michigan Grade Level Content Expectations (GLCE)?
- How will we modify the curriculum and instructional delivery to address the unique needs of children with disabilities?
- How can we train general and special education teachers to modify/adapt the curriculum and instructional approach for children with disabilities in inclusive classrooms?
- How will our school include children with disabilities in required district and state-wide assessments and in the MI-Access (alternate MEAP) assessment for students with significant cognitive disabilities?
- How will curriculum and assessment decisions be considered and monitored by IEP teams and staff?

### PROFESSIONAL DEVELOPMENT

- How will our school provide teachers with professional development?
- Will teachers need any specialized professional development related to educating and including children with disabilities?

- Have we included training on administration of medications in schools?  
[http://www.michigan.gov/documents/Medication\\_Policy\\_Nov\\_25\\_2002\\_51010\\_7.pdf](http://www.michigan.gov/documents/Medication_Policy_Nov_25_2002_51010_7.pdf)
- Does a neighboring district, ISD, or local university operate a professional development program or network we can utilize?

### ADMINISTRATION

- Who will administer the special education program?
- Who will be responsible for collecting, managing and reporting data related to children with disabilities?
- Can we create our own system to administer special education or will we adopt the policies/procedures dictated by our authorizer, local district, or other administrative unit?
- How will our school handle student records and other school property appropriately in the event of closure of the charter school?

### SPECIAL EDUCATION FUNDING

- How will federal, state and local special education dollars flow?
- What does our school need to budget for special education during the first year?
- How do we need to prepare financially to enroll a student with significant special needs?

### FACILITIES

- Where will we conduct student evaluations?
- Where will we conduct IEP meetings?
- Where can we store confidential records?
- Where will we provide pullout services?
- Where can related services personnel meet with individual students?
- Are entrances, classrooms, common areas and bathrooms accessible to individuals—including adults—with physical disabilities?
- Does the facility have space to store and administer medications or use medical equipment?

### TRANSPORTATION

- How will our school meet transportation needs of students who receive transportation as a related service if articulated on their IEP?
- Where will we access transportation for a student in a wheelchair?

# AUTHORIZATION

## ❓ What occurs during the authorization phase?

The authorization phase incorporates the stage in which the applicant completes the formal written application and seeks a charter. Michigan authorizers are required by statute to conduct a “competitive” application process. The application process is partially specified in law and is further developed by individual authorizers. In Michigan, applicants are required to include the following components in their applications:

- a) the name of the applicant;
- b) proposed Board members for consideration by the authorizer;
- c) proposed articles of incorporation as a Michigan non-profit corporation, including:
  - i) the PSA’s name;
  - ii) the PSA’s purpose as a governmental entity;
  - iii) the authorizer; and
  - iv) proposed effective date;
- d) proposed by-laws;
- e) documentation meeting the authorizer’s specific requirements, including:
  - i) the governance structure of the PSA;
  - ii) the educational goals and assessment methods;
  - iii) an admission policy that provides public notice and open enrollment;
  - iv) the school calendar and day schedule; and
  - v) the age or grade range of pupils proposed to be enrolled;
- f) job descriptions for staff;
- g) identification of the local and intermediate school districts in which the PSA will be located,
- h) **assurance that the PSA will comply with applicable state and federal law;**
  - i) (if authorized by an LEA) assurance that the collective bargaining agreements in place for the LEA will be honored for PSA employees; and
  - j) a description of and address for the site where the PSA will be located.

Some authorizers require applicants to submit the separate contracts they negotiate with education management companies.

Once a charter is granted, the authorizer and the PSA negotiate a contract that articulates in greater detail the basis on which the authorizer will hold the PSA accountable for performance as specified by NCLB, IDEA, and other applicable standards. The contract may outline how finances—including special education finances—will be managed.

**? When reviewing applications, in what areas should I anticipate or require information regarding an applicant's plan to incorporate students with disabilities?**

- Administration
- Curriculum, instruction and assessment
- Enrollment
- Specialized personnel (e.g., certified special education teachers, administrators, related services personnel)
- Budget
- Facility
- Transportation

Some authorizers find it helpful for a special educator to be part of the application evaluation team.

**? What should authorizers ask applicants about their plans to provide special education services to students with disabilities?**

Authorizers should ask applicants at a minimum to articulate a rudimentary plan regarding governance, service delivery and financing of special education. It is critical that applicants demonstrate to authorizers that they have a well conceived, feasible plan to access the capacity they will need to meet their legal responsibilities. Authorizers should ask applicants to provide some or all of the following plans during the application and authorization phase:

- plan to evaluate and identify children with disabilities;
- plan to develop, review and revise IEPs;
- plan to integrate special education into the general education program;
- plan to deliver special education and related services (e.g., in-house or contract out?);
- projected cost of special education program (e.g., percent of operating budget);
- plan to access and account for special education funds;
- anticipated sources for ongoing legal guidance related to special education;
- plan to ensure that the school facility meets the requirements of other related laws such as the Americans with Disabilities Act (ADA) and Section 504;
- plan for enrollment/IEP transition procedure;
- plan for IEP development and review meetings;
- plan to address student discipline;
- plan to handle programming disputes involving parents;
- plan to ensure confidentiality of special education records;
- plan to purchase services from special education vendors; and
- plan to secure technical assistance and training.

Many of these may be available through the ISD or the Michigan Department of Education.

## **❓ What is my responsibility as an authorizer to ensure that PSAs serve children with disabilities?**

Authorizers have a responsibility to ensure that PSAs serve all students who enroll and meet other special education requirements even though, ultimately, it is the state's responsibility to ensure compliance with IDEA. By ensuring that PSAs have the capacity to provide special education services, authorizers can help operators avoid potential liability and ensure that all students who enroll have the opportunity to obtain an appropriate education.

## **❓ How are PSAs developing the capacity to deliver special education services in the school?**

Building special education capacity may entail various arrangements for the purposes of special education. Examples of approaches PSAs are using to increase their special education capacity include: 1) hiring appropriate professionals to work at the school; 2) contracting with a local education agency; 3) contracting with a regional education agency; 4) contracting with individuals or organizations qualified to provide special education services; or 5) some combinations of these approaches. As long as charter schools can ensure that children with disabilities enrolled in their schools have access to a free appropriate public education, they may utilize a variety of strategies to amass the capacity.

## **❓ What are some issues authorizers should monitor related to discrimination against students with disabilities?**

As public schools, PSAs are not allowed to discriminate against students with disabilities. This may include, but not be limited to, issues such as:

- disproportionate representation by race and ethnicity in special education and
- "counseling-out" of students with disabilities.

## **❓ Can a PSA "counsel-out" a student with a disability?**

Counseling-out is the process of subtly or not-so subtly "counseling" a child with a disability to influence an enrollment decision inappropriately based on the child's disability. PSAs are public schools and as such, they are legally required to maintain open enrollment policies. Advising students with disabilities that they are not allowed to attend or that the school cannot provide the modifications or accommodations necessary to enable them to attend is discriminatory and illegal. All placement decisions for students with disabilities should be made in the forum of an IEP meeting and must be based on an individual student's educational requirements. The federal Office for Civil Rights (OCR) is charged with investigating issues raised about discrimination against students with disabilities.

## **❓ Are PSAs required to provide the full continuum of programs and services on the school site?**

Both traditional schools and PSAs rely on IEP decision making processes for determining placements. In order to ensure that decisions regarding enrollment are 1) made based upon each individual child, as opposed to groups of children with particular disabilities and 2) made based upon the best interests of the child as opposed to the convenience of the PSA, decisions regarding appropriate placement must be made by an IEP team rather than a single individual. It is part of the process of ensuring that a child with a disability receives a free appropriate public education (FAPE) in the least restrictive environment (LRE). This may or may not be on the PSA's site. Once a student is enrolled in a PSA, the financial responsibility of providing services belongs to the PSA within the context of the ISD plan.

For a more detailed explanation regarding access to charter schools for students with disabilities, see the OCR document *Applying Federal Civil Rights Laws to Charter Schools*, at [http://www.uscharterschools.org/pdf/fr/civil\\_rights.pdf](http://www.uscharterschools.org/pdf/fr/civil_rights.pdf)

## **❓ What are examples of appropriate classroom adaptations, accommodations and modifications offered to children with disabilities?**

Examples of appropriate classroom adaptations, accommodations and modifications that enable a child to access the curriculum include:

- changing the manner in which material is presented;
- creating personalized study guides;
- adapting textbooks;
- arranging the classroom environment to enhance student learning;
- altering task requirements;
- selecting an alternate task for a classroom assignment;
- managing classroom behavior;
- promoting social acceptance; and
- using assistive technology devices.

More information on classroom adaptations, accommodations and modifications is available from the National Dissemination Center for Children with Disabilities online at <http://www.nichcy.org/pubs/bibliog/bib15txt.htm>

## **❓ What is an authorizer's role in ensuring that PSAs fulfill their mission while complying with their obligation related to adaptation, accommodations and modifications required by IDEA and Section 504?**

Authorizers should require applicants to articulate their mission explicitly and ensure that the PSA is prepared to offer reasonable accommodations to children with disabilities who elect to attend the school. A key component of reasonable accommodations is a school culture that incorporates a commitment to offering accommodations to individuals with disabilities while guarding against substantively changing the nature of the school's mission. Authorizers should scrutinize a PSA's

admission policies to ensure that the policies don't block enrollment for particular students or groups of students.

### **❓ Can a PSA's curriculum alone meet the needs of students with disabilities?**

The core tenet of the IDEA is that children are treated as individuals with unique abilities and disabilities that need to be addressed by providing unique support services, which are explicitly articulated in an IEP. Even if the school plans to provide all children with individualized learning plans loosely analogous to IEPs that address each student's unique cognitive and physical abilities and disabilities, the learning plan for a student with a disability (as defined by Michigan Administrative Rules for Special Education) must conform to all of the requirements of IDEA and the ISD plan. To determine whether these learning plans or other curricular approaches meet IDEA procedural requirements, PSA operators must be aware of district and state special education requirements. In general, any policy that aims to treat all children with disabilities the same way should raise a red flag to authorizers assessing applications. When reviewing PSA applications, authorizers can request additional information regarding how the PSA plans to ensure that its particular curriculum or instructional approach can address the unique individual needs of students with disabilities.

### **❓ What does it mean to have the capacity to provide special education services?**

Special education capacity entails having the human, fiscal and legal resources required to fulfill the responsibilities articulated in IDEA. At a minimum, capacity includes the ability to implement existing IEPs, refer eligible students to special education, conduct evaluations, develop IEPs and provide special education and related services for all entitled students enrolled in the school. Authorizers need to be confident that applicants either have established, or can access, the capacity they will need to meet their special education responsibilities. This could involve securing services from an outside source.

### **❓ Do PSAs have to hire highly qualified special educators?**

Yes! IDEA requires that special education teachers meet the "highly qualified" standards of NCLB. This is a complex issue and additional information and clarification on this topic should be obtained from the Michigan Department of Education.

### **❓ Given the current shortage of special education teachers nationwide, what strategies can PSAs use to hire teachers and related services professionals?**

PSAs can employ creative strategies to access credentialed special education and related service professionals. Strategies that PSAs commonly use are:

- working with your ISD to secure an approval for a general education certified teacher in the process of obtaining an appropriate special education endorsement within a three year period;
- hiring consultants to provide special education services;
- hiring retired teachers to work part-time;
- developing collaborative agreements with an LEA;
- developing collaborative agreements with other PSAs to share special education teachers; and
- forming partnerships with a local non-profit entity (e.g., a hospital).

**? Where can PSAs learn more about Michigan’s requirements regarding special education certification?**

Specific and detailed information on certification is available on the Michigan Department of Education’s website ([http://www.michigan.gov/mde/0,1607,%207-140-6530\\_5683\\_14795---,00.html](http://www.michigan.gov/mde/0,1607,%207-140-6530_5683_14795---,00.html))

**? What are the major expenses associated with special education?**

Expenses associated with special education fall into four general categories:

- personnel,
- equipment,
- facility modifications and
- transportation.

**? How can Michigan PSAs plan for their expenses related to special education?**

In Michigan, approximately 14.6 percent of the public school population is identified as eligible for special education services. As a general rule of thumb, PSAs should anticipate that approximately 14.6 percent of their student population will be students with disabilities. PSA developers should be advised to consider developing a reserve in case their special education expenses exceed revenue. Applicants should be encouraged to meet with their ISD financial officer.

**? How can authorizers assist PSAs that enroll a child with significant disabilities and are struggling to provide the services the student requires due to the excess costs?**

Authorizers should ensure that PSA operators understand how to seek additional resources that are available for students with disabilities. Applicants should be encouraged to meet with their ISD special education director to discuss the ISD plan.

## **? What is the legal basis for requirements related to public school facilities' accessibility for students with disabilities?**

Legal requirements regarding accessibility are extremely complex and stem from the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act. To read these laws and see documents regarding their implementation in public schools please see the following websites:

- Americans with Disabilities Act of 1990  
<http://www.usdoj.gov/crt/ada/adahom1.htm>
- Section 504 of the Rehabilitation Act of 1973  
<http://www.504idea.org/Select504.pdf>
- ADA and Section 504, Kids source  
<http://www.kidsource.com/kidsource/content3/ada.idea.html>

## **? What should authorizers advise PSAs about accessible facilities?**

Negotiating the parameters of the ADA and 504 is challenging and authorizers should strongly encourage the schools they authorize to seek legal counsel regarding their obligations associated with accessibility. Authorizers also should obtain counsel, to be familiar with the requirements themselves.

## **? If a PSA is required to make its facility accessible to an individual with a disability, whose responsibility is it to make the building accessible?**

Responsibility to modify a facility, even in the event of unforeseen need, should be articulated in the lease between the PSA and the owner of the facility. Authorizers should strongly encourage PSA operators to seek experienced legal counsel prior to signing any contracts to lease or purchase a facility for their school.

## **? What responsibility do authorizers have for monitoring accessibility of PSAs facilities?**

Authorizers are expected to ensure that PSAs occupy facilities with valid Certificates of Occupancy issued by the Michigan Department of Labor and Economic Growth, Bureau of Construction Codes and Fire Safety. Given that PSA authorizers are ultimately responsible for ensuring that PSA operators fulfill their obligations outlined in their charter and comply with all applicable laws, authorizers would be well advised to take a proactive role in ensuring that facilities are accessible to individuals with disabilities in accordance with federal and state laws.

## **? In the event that a PSA must make its facilities accessible to an individual with a disability, where should an authorizer direct its operator to obtain information about how to make facilities accessible?**

- MICHIGAN DEPARTMENT OF LABOR AND ECONOMIC GROWTH (DLEG): Authorizers should familiarize themselves with DLEG requirements for school buildings and the process for obtaining required Safety Inspections and Certificates of Occupancy.
- US DEPARTMENT OF EDUCATION OFFICE FOR CIVIL RIGHTS:  
<http://www.ed.gov/about/offices/list/ocr/index.html?src=mr>
- AMERICANS WITH DISABILITIES ACT:  
<http://www.usdoj.gov/crt/ada/adahom1.htm>

## **❓ Do PSAs have to provide transportation to students with disabilities?**

If transportation is identified as a related service on the IEP, transporting the child is the responsibility of the PSA.

### **🔑 Summary and Key Points**

The authorization stage is critical to the development of successful PSAs. Building on the foundation established during the pre-authorization phase, the authorization process provides authorizers the opportunity to verify potential operators' knowledge about their responsibilities and to assess the degree to which an applicant is capable of fulfilling these responsibilities. PSA authorizers should be knowledgeable about special education. This basic knowledge will enable authorizers to ensure that: 1) PSA applicants fully understand and are prepared for their responsibility to educate students with disabilities and 2) PSA applicants integrate their plan to provide adequately for special education within their application. By providing PSA developers early guidance on how to anticipate and adequately address the application process, authorizers can help PSAs preempt a variety of challenging issues that will emerge once a child with a disability enrolls in the PSA.

## **? What is my role as an authorizer to hold PSAs accountable in the area of special education?**

Once the PSA doors open and the students arrive, PSA authorizers' responsibility shifts from granting charters to overseeing the schools and holding them accountable for the goals and objectives outlined in the charters. The charter is a contract and the authorizer is responsible for ensuring that PSA operators fulfill their responsibilities articulated in the contract. It is important that each PSA's specific level of responsibility for special education be included in the PSA School Improvement Plan.

## **? Since data collection and documentation are important aspects of IDEA, what types of data and documentation regarding children with disabilities should authorizers recommend that PSAs collect and report?**

Data and documentation are two major accountability tasks. PSAs are obligated to collect and report the same information that all public schools must report including:

- Statistical data on students,
- AYP status and results of state-wide tests and
- Financial information.

Examples of special education data and documentation that a PSA school must compile include student counts (e.g., December 1 counts), monitoring reports and Continuous Improvement Monitoring System (CIMS) data.

## **? What should authorizers know about the federal and state special education monitoring processes?**

The federal Office of Special Education Programs (OSEP) monitors every state on its compliance with IDEA requirements. In turn, each state must monitor how its districts comply. PSAs are held accountable for special education in the same manner as all public schools: they must demonstrate that they comply with IDEA.

Michigan utilizes a combination of focused monitoring and continuous improvement approaches as coordinated by ISDs. Each PSA and LEA is reviewed on a regular cycle and a report documenting the findings is issued after the review. The monitored entity must correct any identified compliance violations. For further information about special education monitoring in Michigan, see [http://www.michigan.gov/documents/05-02FactSheet\\_130725\\_7.pdf](http://www.michigan.gov/documents/05-02FactSheet_130725_7.pdf).

## **❓ Should authorizing agencies consider special education part of the charter renewal process?**

Michigan law requires authorizers to consider special education in the renewal process. The laws require that authorizers assess the degree to which the PSA is meeting its goals and objectives and its compliance with federal and state laws. Special education and specifically the performance of students with disabilities should be considered explicitly as a regular part of the school's progress toward meeting its overall goals and not an afterthought. Failure to fulfill obligations related to special education could be a criterion contributing to non-renewal.

A key factor that authorizers may want to assess when contemplating renewal is whether charter schools have been the subject of any informal or formal complaints related to special education service delivery or procedures. While complaints can arise from a variety of issues separate from the quality of special education services provided, multiple complaints should raise a red flag at renewal time. Multiple or persistent complaints may be an indication of a substantive failure to provide a free appropriate public education to students with disabilities. Low enrollment of students with disabilities in a charter school may serve as a "yellow flag" that triggers further inquiry regarding enrollment practices and questions about child find.

### **🔑 Summary and Key Points**

Accountability is a core tenet of the PSA concept and one of the critical responsibilities of all charter school authorizers. Michigan charter school law provides guidelines regarding how PSAs will be held accountable for fulfilling the goals and objectives articulated in their charters while leaving authorizers the discretion and responsibility to develop an adequate renewal decision-making process. PSAs are also required to participate in federally required monitoring and accountability processes.

# NON-RENEWAL, REVOCATION, AND TERMINATION

## **? What is the meaning of the terms non-renewal, revocation and termination as used in this Primer?**

- NON-RENEWAL is what occurs when a charter school seeks renewal and the authorizer does not grant the charter school a new charter (or renew its current charter). As a result of not having its charter renewed, the charter school loses its authority to operate and can no longer exist as a public school with the current authorizer.
- REVOCATIONS occur when an authorizer proactively removes or terminates a school's charter and consequently, its legal authority to operate as a public school because the charter school has failed to meet the obligations articulated in its charter or contract with the authorizer.
- TERMINATION may be a voluntary or involuntary end to the charter, according to the terms of the authorizing contract. Termination may be based upon the decision and action of the authorizer, the PSA, or both. -

## **? If a PSA ceases to exist, what has to be considered relative to students with disabilities?**

To ensure appropriate procedures will be followed in the event of a closure, authorizers should require that specific responsibilities for student records and the allocation of other school property are addressed in the application process and subsequently codified in the school's charter or contract with the authorizer. When a PSA is closed, the PSA board has an obligation to ensure that student records are sent to the school to which students will be transferred. Authorizers should work with boards of closed charter schools to ensure that records are handled appropriately. If there is no known school of transfer for the child, the authorizer should require that the PSA seek counsel from the appropriate ISD and LEA in which the PSA is located regarding the appropriate transfer of student records.

Authorizers will also need to ensure that there is a specific accounting for special education funds. Special education programs receive funding from federal, state and local sources. As such, dismantling a special education program requires careful accounting of how special education dollars were spent and the disposition of materials and equipment purchased with special education dollars. Authorizers should oversee that PSAs, though closed, complete and submit the required annual independent audit and final audit to MDE prior to dissolution of the PSA corporation.

## **❓ In the case of revocation or termination, how should charter schools dispose of any special equipment that was purchased for students with disabilities?**

Section 18b of the State School Aid Act (MCL 388.1618b) requires that property acquired with state school aid funds be transferred to the State Treasurer for deposit in the state school aid fund in the event that a PSA is closed. In general, special equipment purchased for a student with a disability should follow the child to his or her next public school placement or alternatively, be returned to the local district that is the student's district of residence. Disposing of equipment purchased with federal special education dollars is dictated by federal requirements that may be different from what is typically articulated in a charter contract. Authorizers should check state and federal requirements for disposal or transfer of equipment purchased with state or federal special education money.

## **❓ In the case of school closure, are there special procedures for handling special education files?**

All students' educational records are protected by the Family Educational Rights Privacy Act (FERPA) 20 U.S.C. § 1232g; 34 CFR Part 99 that stipulates how the records are to be handled appropriately. Charter school personnel are responsible for closing and preparing files for transfer to either the next school, ~~or~~ **the LEA in which the PSA is located**, in accord with these regulations **and any cooperative agreements developed between the PSA, the ISD or LEA**. Information about FERPA is available online at <http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

## **❓ Do PSA have any legal obligation to their students with disabilities after the school closes?**

At a minimum, PSAs are obligated to transfer records. PSA staff may be requested to participate in IEP staffing meetings at schools in which the students enroll after leaving the charter school.

## **🔑 Summary and Key Points**

The non-renewal, revocation, or termination of a charter is at best an unpleasant experience and at worst, highly contentious and politically charged. Regardless of how unlikely a school closure may appear, ensuring the proper transfer of student records and appropriate disposition of all assets in the event of closure, including those specifically for special education is a responsibility for which authorizers must always be prepared. Regardless of the environment in which a school closes, authorizers are responsible for ensuring that the necessary steps are taken to protect students' rights to privacy and maintain the integrity of records. Establishing the procedures for closing a school, including special education considerations, should be incorporated into the initial charter contract to ensure that all parties are aware of their roles and responsibilities in the event of closure.

# TECHNICAL ASSISTANCE AND RESOURCES

Providing special education in charter schools, not unlike traditional public schools, is challenging for a variety of reasons, and amassing the capacity to deliver special education requires early and ongoing technical assistance related to the complex requirements stemming from IDEA. Although they vary in how they perceive their relationship to the schools they charter, authorizers can play a critical role in not only informing charter schools of their responsibilities related to special education, but also in serving as a source of information regarding where charter schools can obtain technical assistance. Charter schools can tap into a variety of networks to learn more about special education in general and issues related to special education in charter schools specifically. Following is a partial list of resources that authorizers should be familiar with and to which they may direct potential charter applicants.

## **Local Education Agencies**

States delegate their responsibility for providing a free appropriate public education for students with disabilities to local education agencies. As part of this responsibility, LEAs generally offer district schools technical assistance in the form of documents and training. Many districts maintain websites with abundant resources related to special education. While not catering specifically to charter schools, district special education technical assistance can be invaluable to charter developers interested in learning more about special education.

## **Regional Technical Assistance Networks**

Michigan ISDs provide all Michigan schools with extensive assistance on special education including programs and services of students with disabilities and professional development and technical assistance for staff in the schools in their catchment area.

## **State Charter School Support Organizations**

Authorizers should be familiar with the services available through a resource center or association and encourage the schools they charter to take advantage of them. The Michigan Association of Public School Academies (MAPSA) provides a variety of supports and information for PSAs (<http://www.charterschools.org/pages/index.cfm>). MAPSA also worked with CS Partners to create a website devoted to information about serving students with disabilities in charter schools (<http://www.visionforanewway.org>). The website is maintained and supported with funding from the Michigan Department of Education.

## **The Michigan Department of Education**

The Michigan Department of Education is a rich source of general information regarding special education and PSAs. The Public School Academies section of the website is at <http://www.michigan.gov/charters> and the Special Education Department website is at [http://www.michigan.gov/mde/0,1607,7-140-6530\\_6598---,00.html](http://www.michigan.gov/mde/0,1607,7-140-6530_6598---,00.html)

## **U.S. Department of Education**

Several offices in the U.S. Department of Education maintain websites that may be helpful to charter school applicants. OSEP maintains a Technical Assistance and Dissemination web page that provides links to a variety of resources related to special education

<http://www.ed.gov/about/offices/list/osep/index.html?src=mr>

Another office that has more general resources for charter schools is the Office of Innovation and Improvement

<http://www.ed.gov/about/offices/list/oii/index.html?src=oc>

## **National Charter School Authorizer Network**

NATIONAL ASSOCIATION OF CHARTER SCHOOL AUTHORIZERS (NACSA) is a nonprofit membership association of educational agencies across the country that authorize and oversee public charter schools. Created in 2000 by a diverse group of charter school authorizers nationwide, NACSA is dedicated to supporting and strengthening the capacities of authorizers to charter successful schools. It provides many resources of significant value to charter school authorizers through its website at <http://www.charterauthorizers.org>

## **National Special Education Networks**

- NATIONAL ASSOCIATION OF STATE DIRECTORS OF SPECIAL EDUCATION (NASDSE) provides a wide range of information regarding special education including research reports and technical assistance documents pertaining to special education in charter schools <http://www.nasdse.org>
- NATIONAL INFORMATION CENTER FOR CHILDREN AND YOUTH WITH DISABILITIES (NICHCY) is an information and referral center that provides free information on disabilities and disability-related issues. Children and youth with disabilities (birth to age 22) are NICHCY's special focus (<http://www.nichcy.org/>).

## **National Charter School Networks**

- US CHARTERSCHOOLS website contains extensive information about charter schools, including research reports, state contacts and upcoming events related to charter schools (<http://www.uscharterschools.org>).
- CENTER FOR EDUCATION REFORM provides up-to-date information about state charter school laws and other relevant topics(<http://www.edreform.com>).